

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**
Lynchburg Division

IN RE:
THOMAS ZUTAUT
Debtor

Case No. 16-61986-RBC

Chapter 13

US BANK NATIONAL ASSOCIATION, AS INDENTURE
TRUSTEE ON BEHALF OF AND WITH RESPECT TO
AJAX MORTGAGE LOAN TRUST 2013-B, MORTGAGE
BACKED NOTES, SERIES 2013-B C/O GREGORY
FUNDING LLC
Movant

v.
THOMAS ZUTAUT
Debtor/Respondent
and
HERBERT L BESKIN
Trustee/Respondent

**ORDER TERMINATING THE AUTOMATIC STAY
AND PROVIDING IN REM RELIEF**

This matter comes before the court on the Motion for Relief from Automatic Stay filed on November 16, 2016 (the “Motion”) on behalf of US BANK NATIONAL ASSOCIATION, AS INDENTURE TRUSTEE ON BEHALF OF AND WITH RESPECT TO AJAX MORTGAGE LOAN TRUST 2013-B, MORTGAGE BACKED NOTES, SERIES 2013-B C/O GREGORY FUNDING LLC (the “Movant”), by counsel.

WHEREAS, the Movant is the current holder of the promissory note in the original principal amount of \$350,000.00 (the “Note”), the payment of which is secured by a Deed of Trust dated September 25, 2003 (the “Deed of Trust”), which Deed of Trust encumbers real property known as 4259 South Boston Road, Troy, VA 22974 (the “Property”) and more particularly described as follows:

ALL THAT CERTAIN TRACT OR PARCEL OF LAND SITUATED IN THE PALMYRA DISTRICT OF FLUVANNA COUNTY, VIRGINIA, ON THE SOUTH SIDE OF STATE ROUTES 616 AND 600, SHOWN AS CONTAINING 128.7355 ACRES, MORE OR LESS, ON PLAT OF ROBERT L. LUM, C.L.S., DATED JULY 26, 1990, RECORDED IN THE CLERK’S OFFICE OF THE CIRCUIT COURT OF FLUVANNA COUNTY, VIRGINIA, IN PLAT BOOK 1, PAGE 79.

WHEREAS, a hearing on the Motion was held on December 15, 2016, and counsel for the Debtor and counsel for the Movant represented to the Court that the Debtor intended to sell the Property and pay all liens, including the amounts due to the Movant under the Note; and,

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Richmond, VA 23229
(804) 282-0463(Phone)
Attorney for the Movant

WHEREAS, it was further agreed that if the Property was not sold and the payoff received by the Movant by February 28, 2017, that the automatic stay would be terminated ***IN REM***, such that the filing of any subsequent bankruptcy petition in any court would not create a stay of any action to enforce the Note and the Deed of Trust;

NOW THEREFORE, it is hereby

ORDERED

That, **effective March 1, 2017**, the automatic stay shall be TERMINATED, pursuant to 11 U.S.C. § 362(d), to permit the Movant, its successors and assigns, to take such action as may be necessary to enforce the lien of its Deed of Trust encumbering the Property, including the initiation of foreclosure proceedings and commencement of any action to obtain possession of the Property as permitted by applicable state law.


IT IS FURTHER ORDERED, that in view of the history of the bankruptcy filings set forth in the Motion for Relief and incorporated herein, under the court's power pursuant to 11 U.S.C §105, the relief from automatic stay granted shall be *in rem*, and shall constitute an equitable servitude against any interest of any other party occupying or relating to the Property located at 4259 South Boston Road, Troy, VA 22974, and shall be effective notwithstanding the filing of another case by any other party purporting to occupy, possess, reside at, or relate to the Property under any Chapter of the Bankruptcy Code in this or any other Bankruptcy Court.

IT IS FURTHER ORDERED, that upon recordation, this Order shall be binding in any other bankruptcy case purporting to affect the Property filed no later than one year after the date of the entry of this Order, except that a debtor in a subsequent bankruptcy case may move for relief from this Order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental until that accepts notices of interests or liens in real property shall accept a certified copy of this Order for indexing and recording.

IT IS FURTHER ORDERED, that any unsecured claim for a deficiency (which claim must include documents proving that it has liquidated its collateral and applied the proceeds of sale in accordance with applicable state law) must be filed by the Movant within 180 days from the date on which the order lifting stay is entered, or such claim against the bankruptcy estate shall be forever barred.

IT IS ORDERED.

Date: January 6, 2017


United States Bankruptcy Judge
for the Western District of Virginia
Lynchburg Division
Entered on Docket: _____

WE ASK FOR THIS:

/s/ Andrew Todd Rich

Andrew Todd Rich, VSB# 74296
BWW Law Group, LLC
8100 Three Chopt Road, Suite 240
Richmond, VA 23229
(804) 282-0463 (phone)
(804) 282-0541 (facsimile)
Counsel for the Movant

SEEN AND AGREED:

/s/ William T. Harville

William T. Harville, Esq.
327 W. Main St., #3
Charlottesville, VA 22903
Counsel for the Debtor

SEEN:

/s/ Herbert L. Beskin

Herbert L Beskin, Trustee
PO Box 2103
Charlottesville, VA 22902
Chapter 13 Trustee

CERTIFICATION

I HEREBY CERTIFY that the foregoing proposed Order Terminating the Automatic Stay and Providing in Rem Relief has been endorsed by or on behalf of all necessary parties.

/s/ Andrew Todd Rich

Andrew Todd Rich
Counsel for the Movant

cc:

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